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12 | Proposed Attorneys for Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

SAN FRANCISCO DIVISION

In re:

Case No. 19-30088 (DM)
Chapter 11
(Lead Case)
(Jointly Administered)

PG&E CORPORATION.

- and -

PACIFIC GAS AND ELECTRIC COMPANY,

Debtors.

- Affects PG&E Corporation
 - Affects Pacific Gas & Electric Company
 - Affects both Debtors

**APPLICATION PURSUANT TO 11 U.S.C.
§ 327(e) AND FED. R. BANKR. P. 2014(a)
AND 2016 FOR ORDER AUTHORIZING
THE DEBTORS TO RETAIN JENNER &
BLOCK LLP AS SPECIAL CORPORATE
DEFENSE COUNSEL *NUNC PRO TUNC*
TO THE PETITION DATE**

Date: April 24, 2019
Time: 9:30 a.m. (Pacific Time)
Place: United States Bankruptcy Court
Courtroom 17, 16th Floor
San Francisco, CA 94102

** All papers shall be filed in the Lead Case, No. 19-30088 (DM).*

1 PG&E Corporation (“**PG&E Corp.**”) and Pacific Gas and Electric Company (the
2 “**Utility**”), as debtors and debtors in possession (collectively, “**PG&E**” or the “**Debtors**”) in the
3 above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), hereby submit this application (the
4 “**Application**”) for entry of an order, pursuant to section 327(e) of title 11 of the United States
5 Code, 11 U.S.C. §§ 101–1532 (the “**Bankruptcy Code**”) and Rules 2014(a) and 2016 of the
6 Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), authorizing the employment
7 of Jenner & Block LLP (“**Jenner & Block**”), as the Debtors’ special corporate defense counsel to
8 represent the Debtors in connection with the Criminal Case (as defined below) and various other
9 state and federal regulatory matters on the terms and conditions set forth herein, *nunc pro tunc* to
10 the Petition Date (as defined below). In support of this Application, the Debtors rely upon the
11 Declaration of Randall E. Mehrberg (the “**Mehrberg Declaration**”) and the Declaration of Janet
12 Doluca (the “**Loduca Declaration**”).

13 A proposed form of order approving the retention and employment of Jenner & Block is
14 annexed hereto as **Exhibit A** (the “**Proposed Order**”).

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MEMORANDUM OF POINTS AND AUTHORITIES

I. JURISDICTION

The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, the *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D. Cal.), and Rule 5011-1(a) of the Bankruptcy Local Rules for the United States District Court for the Northern District of California (the “**Bankruptcy Local Rules**”). This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue before the Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

II. BACKGROUND

On January 29, 2019 (the “**Petition Date**”), the Debtors commenced with the Court voluntary cases under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in either of the Chapter 11 Cases. The Debtors’ Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b).

On February 12, 2019, the United States Trustee (the “**U.S. Trustee**”) appointed an Official Committee of Unsecured Creditors (the “**Creditors Committee**”). On February 15, 2019, the U.S. Trustee appointed an Official Committee of Tort Claimants (the “**Tort Claimants Committee**” and, together with the Creditors Committee, the “**Committees**”).

Additional information regarding the circumstances leading to the commencement of the Chapter 11 Cases and information regarding the Debtors' businesses and capital structure is set forth in the *Amended Declaration of Jason P. Wells in Support of the First Day Motions and Related Relief* [Docket No. 263] (the "**Wells Declaration**").

III. BASIS FOR RELIEF

The Debtors seek approval of the employment of Jenner & Block as special corporate defense counsel pursuant to section 327(e) of the Bankruptcy Code. Section 327(e) of the Bankruptcy Code provides that the debtor in possession “may employ, for a specified special

1 purpose, other than to represent the [debtor in possession] in conducting the case, an attorney that
2 has represented the debtor, if in the best interest of the estate, and if such attorney does not
3 represent or hold any interest adverse to the debtor or to the estate with respect to the matter on
4 which such attorney is to be employed.” 11 U.S.C. § 327(e).

5 As detailed below, the Debtors submit that the employment of Jenner & Block, effective
6 as of the Petition Date, and on the terms and conditions set forth herein, is in the best interest of
7 the Debtors, their estates, their creditors, and all other parties in interest, and therefore should be
8 approved.

9 **IV. JENNER & BLOCK’S QUALIFICATIONS**

10 The Debtors have selected Jenner & Block to serve as special corporate defense counsel
11 because of Jenner & Block’s considerable experience in complex corporate investigations and
12 defense and energy regulatory matters. Jenner & Block has more than 500 lawyers in offices in
13 Chicago, New York, Los Angeles, Washington D.C., and, through an affiliated law firm, in
14 London. Jenner & Block’s Internal Investigations, Compliance, and Defense group is one of the
15 country’s premier practices in the field of internal investigations and corporate defenses. Its
16 members, which include two former U.S. attorneys, have conducted internal investigations for
17 publicly held corporations, privately held corporations, and governmental entities across the
18 United States and abroad. Jenner & Block also has a world-class energy practice, co-chaired by a
19 former major utility general counsel and a former Federal Energy Regulatory Commission
20 (“FERC”) Commissioner. Jenner & Block’s energy practice also includes a former FERC general
21 counsel and two former U.S. Supreme Court clerks who lead major litigation efforts on behalf of
22 numerous energy industry clients.

23 Additionally, having represented the Debtors in the Criminal Case and other matters for
24 over two years prior to the Petition Date, Jenner & Block has acquired considerable knowledge of
25 Debtors’ business and operations. For the foregoing reasons, the Debtors believe that Jenner &
26 Block is well-qualified to represent the Debtors as special corporate defense counsel during the
27 pendency of these Chapter 11 Cases, and that the retention of Jenner & Block is in the best interests
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1 of the Debtors, their estates, creditors, shareholders, and all parties in interest.

2 **V. SERVICES TO BE PROVIDED**

3 Jenner & Block will provide the following services to the Debtors:

- 4 a) draft motions and briefs, appear at hearings, and otherwise represent the
5 Utility in connection with the probation and the monitorship resulting from
6 the criminal investigation and convictions relating to the natural gas
7 explosion that occurred in the City of San Bruno, California, on September
8 9, 2010 (the “**Criminal Case**”);
9 b) advise the Debtors in complying with the probationary measures imposed
10 in the Criminal Case;
11 c) advise the Debtors in connection with various regulatory and enforcement
12 matters involving the Federal Energy Regulatory Commission, Department
13 of the Interior, Federal Communications Commission, and other federal
14 agencies, and/or California state agencies, including the California Public
15 Utilities Commission;
16 d) conduct internal investigations and advise the Debtors with respect to
17 remediation of same, including in defending the Debtors in any regulatory
18 actions taken against the Debtors;
19 e) assist, as requested, with matters relating to the aforementioned services as
20 they may impact the Chapter 11 Cases; and
21 f) perform all other necessary legal services required by the Debtors during
22 the pendency of their Chapter 11 Cases.

23 Jenner & Block has, and will continue to, work closely with Weil, Gotshal & Manges LLP,
24 Cravath, Swaine & Moore LLP, Munger, Tolles & Olson LLP and the Debtors’ other professionals
25 to maximize efficiency and avoid any duplication of effort.

26 **VI. TERMS OF COMPENSATION**

27 As set forth in the Mehrberg Declaration, the Debtors understand and have agreed that

1 Jenner & Block will apply to the Court for allowances and reimbursement of expenses in
2 accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the
3 Bankruptcy Local Rules, the *United States Bankruptcy Court Northern District of California*
4 *Guidelines for Compensation and Expense Reimbursement of Professionals and Trustees*,
5 effective February 19, 2014 (the “**Local Guidelines**”), the *U.S. Trustee Guidelines for Reviewing*
6 *Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by*
7 *Attorneys in Larger Chapter 11 Cases*, effective November 1, 2013 (the “**U.S. Trustee**
8 **Guidelines**,” and together with the Local Guidelines, the “**Fee Guidelines**”), and any further
9 Orders of the Court regarding professional compensation and reimbursement of expenses in these
10 Chapter 11 Cases (the “**Orders**”).

11 The pre-petition terms of Jenner & Block’s engagement by the Debtors are set forth in that
12 certain engagement agreement dated January 22, 2018 (the “**Engagement Agreement**”). Jenner
13 & Block has informed the Debtors that, subject to the approval of this Court, it will charge the
14 Debtors for its legal services on an hourly basis at the rates set forth in the Engagement Agreement,
15 which reflect an approximately 20% discount¹ from Jenner & Block’s ordinary and customary
16 hourly rates in effect as of January 1, 2019, and for reimbursement of all costs and expenses in
17 connection with these Chapter 11 Cases, as set forth in the Mehrberg Declaration. In the normal
18 course of its business, Jenner & Block revises its hourly rates annually. Jenner & Block will
19 provide notice of any such rate increases to the Debtors and the Office of the United States Trustee
20 for Region 17 (the “**U.S. Trustee**”) before taking effect. Notwithstanding the provisions of the
21 Engagement Agreement, Jenner & Block will bill for services in increments of a tenth of an hour
22 (0.1) as required by the Fee Guidelines.

23 The Debtors believe that Jenner & Block’s rates are reasonable based upon its capabilities

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25 ¹ In the Engagement Agreement, Jenner & Block agreed to charge the Debtors its 2018 hourly
26 rates (subject to class-year step increases for associates and new partners), less a 15% discount,
27 through December 31, 2019, at which time Jenner & Block’s rates will revert to its standard
applicable rates. Additionally, Jenner & Block agreed to a 2.5% discount on fees collected in
excess of \$2,500,000 and a 5% discount on fees collected in excess of \$5,000,000 during the 2019
calendar year.

1 and are within the market range for comparable firms. The billing rates for the attorneys expected
2 to have a material role in representing the Debtors are set forth below:

	<u>Name</u>	<u>Position</u>	<u>Discounted Hourly Rate</u>
5	Randall E. Mehrberg	Partner	\$893
6	Reid J. Schar	Partner	\$982
7	Ian H. Gershengorn	Partner	\$982
8	Catherine L. Steege	Partner	\$918
9	Suedeen G. Kelly	Partner	\$871
10	Brian Hauck	Partner	\$782
11	Matthew S. Hellman	Partner	\$761
12	Matthew L. Haws	Partner	\$761
13	Brandon D. Fox	Partner	\$761
14	Max Minzner	Partner	\$740
15	Matthew E. Price	Partner	\$714
16	Coral A. Negron	Partner	\$714
17	Emily M. Loeb	Partner	\$706
18	Angela M. Allen	Partner	\$701
19	Samuel Jahangir	Associate	\$506
20	Andrew P. Walker	Associate	\$506
21	William A. Williams	Associate	\$459
22	Jason T. Perkins	Associate	\$459
23	Amir Shakoorian Tabrizi	Associate	\$400

In addition to the hourly billing rates set forth above, Jenner & Block customarily charges its clients for all costs and expenses incurred, including telephone and telecopier charges, mail and express mail charges, hand delivery charges, document processing, photocopying charges, travel expenses, computerized research and transcription costs, as well as non-ordinary overhead expenses such as secretarial overtime. Jenner & Block has advised the Debtors that it will charge such costs and expenses in accordance, with the Local Rules, the Fee Guidelines, the Orders, and the Engagement Agreement.

The Debtors believe that the terms on which they propose to employ Jenner & Block are usual and customary, that the rates are reasonable based upon its capabilities and the market range for comparable firms, and that they are in line with fees routinely allowed and approved in cases in the Ninth Circuit.

In the twelve months prior to the Petition Date, the Debtors made payments to Jenner & Block on periodic invoices totaling \$3,570,982.15. Additionally, on January 22 and 25, 2019, the

1 Debtors provided Jenner & Block with advance payment retainers in the total amount of
2 \$1,000,000 each. Prior to the Petition Date, Jenner & Block applied its retainer in satisfaction of
3 the fees and expenses incurred by Jenner & Block through January 28, 2019. After that application
4 of the retainer, Jenner & Block held and still holds \$710,723.16 in retainer.

5 **VII. DISINTERESTEDNESS**

6 To the best of the Debtors' knowledge, except as set forth in the Mehrberg Declaration, the
7 partners, counsel, and associates of Jenner & Block: (i) do not have any connection with the
8 Debtors, their affiliates, their creditors, or any other parties in interest, or their respective attorneys
9 and accountants, and (ii) do not hold or represent any interest adverse to the Debtors or their estates
10 with respect to the matters on which Jenner & Block is to be employed. Jenner & Block is thus
11 disinterested within the meanings of section 101(14) and 327(e) of the Bankruptcy Code. Given
12 the large number of parties in interest involved in these Chapter 11 Cases, Jenner & Block's
13 evaluation of its potential connections with such interested parties is ongoing. To the extent that
14 Jenner & Block discovers any connection with any interested party or enters into any new
15 relationship with any interested party, the firm will promptly supplement its disclosure to the
16 Court.

17 Based on the foregoing, the Debtors believe and request that the Court find that it is
18 necessary and in the best interest of the Debtors, their estates, their creditors, and all other parties
19 in interest to employ Jenner & Block as special corporate defense counsel to render professional
20 services during the pendency of these Chapter 11 Cases.

21 **VIII. NOTICE**

22 Notice of this Application will be provided to (i) the Office of the United States Trustee
23 for Region 17 (Attn: James L. Snyder, Esq. and Timothy Laffredi, Esq.); (ii) counsel to the
24 Creditors Committee; (iii) counsel to Tort Claimants Committee; (iv) the Securities and Exchange
25 Commission; (v) the Internal Revenue Service; (vi) the Office of the California Attorney General;
26 (vii) the California Public Utilities Commission; (viii) the Nuclear Regulatory Commission; (ix)
27 the Federal Energy Regulatory Commission; (x) the Office of the United States Attorney for the
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1 Northern District of California; (xi) counsel for the agent under the Debtors' debtor in possession
2 financing facility; and (xii) those persons who have formally appeared in these Chapter 11 Cases
3 and requested service pursuant to Bankruptcy Rule 2002. The Debtors respectfully submit that no
4 further notice is required.

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1 WHEREFORE, the Debtors respectfully request that the Court enter an order substantially
2 in the form annexed hereto as **Exhibit A**, granting the relief requested herein and such further
3 relief as is just and proper.

4 Dated: March 15, 2019

5 **WEIL, GOTSHAL & MANGES LLP**

6 **KELLER & BENVENUTTI LLP**

7 By: /s/ Jane Kim
8 Jane Kim

9 *Proposed Attorneys for Debtors
and Debtors in Possession*

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